

Message Text

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ACTION EB-11

INFO OCT-01 ARA-16 IO-14 ISO-00 FRB-03 OMB-01 TAR-02 SP-03

SWF-02 AGR-20 AID-20 CIAE-00 COME-00 INR-11 LAB-06

NSAE-00 OIC-04 RSC-01 SIL-01 STR-08 TRSE-00 CIEP-03

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E.O. 11652: N/A

TAGS: UNCTAD, TGEN, EGEN

SUBJ: UNCTAD: TDB AGENDA ITEM 8E--TRANSFER OF TECHNOLOGY

1. SUMMARY: POSSIBILITIES OF US DEL HAVING RESOLUTIONS
MODIFIED ON CODE OF CONDUCT FOR TRANSFER OF TECHNOLOGY
AND ON PATENT STUDY PASSED BY IGG ARE VERY SLIM. GROUP
B COUNTRIES APPEAR READY TO PARTICIPATE IN CODE OF
CONDUCT EXPERT GROUP ON CHANCE CONSENSUS CAN BE REACHED
ON NON-BINDING CODE. US DEL BELIEVES IT WOULD BE DESIRABLE
FOR US TO ANNOUNCE IT WILL NOT PARTICIPATE IN PATENT
EXPERT GROUP IF AT LEAST FOUR KEY GROUP B COUNTRIES
AGREE TO DO LIKEWISE. END SUMMARY

2. SESSIONAL COMMITTEE AS AGREED TAKE UP TRANSFER
OF TEHCHNOLOGY ITEM AS FIRST ORDER OF BUSINESS.AT
GROUP B CAUCUS AUG 21, U.S. SET FORTH BASIC POSITION
WITH REGARD TO RESOLUTION ON CODE OF CONDUCT AND PATENT
STUDY, AND URGED COMMON GROUP B POSITION. CONCERNING
OUR SUGGESTION THAT RESOLUTION ON CODE OF CONDUCT
MAKE EXPLICIT THAT CODE WOULD BE NON-BINDING,
GENERAL SENTIMENT OF OTHER MEMBERS OF GROUP B WAS
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THAT IT WOULD BE IMPOSSIBLE TO SECURE LDC AGREEMENT

TO THIS, AND ATTEMPT TO DO SO WOULD PROBABLY LEAD LDCS TO MODIFY TEXT SO AS TO MAKE IT EXPLICIT THAT CODE WOULD BE BINDING. OTHERS FELT BEST COURSE WOULD BE TO LEAVE QUESTION FUZZY, WITH HOPE THAT DURING WORK OF EXPERT GROUP, CONSENSUS WOULD EMERGE ON NON-BINDING CODE, AS SEEMS TO BE HAPPENING WITH REGARD TO ECONOMIC CHARTER. WE POINTED TO DIFFICULTIES OF WORKING ON TEXT WITHOUT CERTITUDE THAT IT WOULD BE NON-BINDING, BUT THIS DID NOT SWAY OTHERS' VIEWS. US AND UK SUGGESTED THAT IF SUCH EXERCISE WERE UNDERTAKEN AND GROUP B COUNTRIES PARTICIPATED, IT WOULD BE ESSENTIAL THAT WE MADE CLEAR AT OUTSET THAT OUR PARTICIPATION WOULD BE ON ASSUMPTION CODE WOULD BE NON-BINDING.

2. CONCERNING PATENT RESOLUTION, FRENCH SUGGESTED GROUP B POSITION SHOULD BE THAT MATTER SHOULD BE REFERRED TO GROUP OF EXPERTS ON CODE OF CONDUCT, WITH EXPECTATION THAT MATTER WOULD BE DOWNPLAYED AND DELAYED. OTHERS FELT THIS APPROACH HAD LITTLE CHANCE OF SUCCESS. US EXPRESSED HOPE PATENT RESOLUTION COULD BE RE-NEGOTIATED AND IMPROVED. WHILE WE HAD SOME SUPPORT, NEW ZEALAND SAID IT SUPPORTED RESOLUTION AS IT IS, AND AUSTRALIA SAID IF EXPERT GROUP ON PATENTS IS ESTABLISHED THEY WOULD PARTICIPATE.

3. CAUCUS REQUESTED GROUP B COORDINATOR TO DISCUSS LEGAL STATUS IGG RESOLUTIONS WITH UNCTAD LEGAL STAFF. RESPONSE WAS THAT IGG WAS ACTING WITHIN ITS COMPETENCE IN PASSING RESOLUTIONS ON CODE OF CONDUCT AND PATENTS, AND TDB HAD NO AUTHORITY MODIFY THEM. GROUP B COORDINATOR POINTED OUT TO CAUCUS THAT TDB COULD OF COURSE PASS DIFFERENT RESOLUTIONS ON SAME SUBJECT, BUT THIS WOULD REQUIRE LDC AGREEMENT. HE SUBSEQUENTLY INDICATED AFTER CONTACTS WITH LDC REPS THAT THEY UNWILLING RE-NEGOTIATE CODE OF CONDUCT AND PATENT RESOLUTIONS PASSED BY IGG. SEEMS UNLIKELY, THEREFORE, THAT THESE TWO RESOLUTIONS WILL EVEN BE SUBJECT OF VOTE IN TDB.

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4. BELIEVE OUR BEST COURSE OF ACTION IS NOW TO REITERATE OUR OBJECTIONS TO THEM AND MAKE SURE THAT OUR VIEWS REFLECTED IN TDB REPORT. WE WOULD NOT INDICATE WHETHER OR NOT WE WOULD PARTICIPATE IN EXPERT GROUP ON CODE OF CONDUCT. WITH REGARD TO PATENT GROUP, IN VIEW BASIC US OBJECTIONS BELIEVE IT WOULD BE DESIRABLE FOR US TO INDICATE DECISION NOT TO PARTICIPATE, IF OTHER KEY GROUP B COUNTRIES AGREE TO DO LIKE-

WISE. THEREFORE REQUEST DEPT AUTHORIZATION TO
INDICATE TO REPS OF UK, GERMANY, SWITZERLAND, CANADA,
FRANCE, AND JAPAN THAT US WOULD BE WILLING STATE WE
WILL NOT PARTICIPATE IN PATENT EXPERT GROUP UNDER
PRESENT TERMS OF REFERENCE IF FOUR OF THOSE SIX COUNTRIES
AGREE DO LIKEWISE.

5. ON THIRD ISSUE, TERMS OF REFERENCE FOR NEW MAIN
COMMITTEE TO SUCCEED IGG, SESSIONAL COMMITTEE HAS
ESTABLISHED SMALL WORKING GROUP TO CONSIDER BRACKETED
LANGUAGE IN DRAFT TERMS OF REFERENCE THAT EMERGED FROM
ALST IGG. WE WILL WORK THROUGH GROUP B AND IN WORKING GROUP TO
PRESS US VIEWS SET FORTH POSITION PAPER.DALE

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